

FIRST REGULAR SESSION

HOUSE BILL NO. 946

97TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES SCHUPP (Sponsor), MCNEIL, ENGLISH, WEBB, ELLINGER,
ROORDA, MCDONALD, MEREDITH, LAFAVER, CURTIS, KIRKTON, GARDNER,
BURNS AND NORR (Co-sponsors).

1907H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To amend chapter 285, RSMo, by adding thereto ten new sections relating to domestic violence.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 285, RSMo, is amended by adding thereto ten new sections, to be
2 known as sections 285.625, 285.630, 285.635, 285.640, 285.645, 285.650, 285.655, 285.660,
3 285.665, and 285.670, to read as follows:

285.625. As used in sections 285.625 to 285.670, the following terms mean:

2 **(1) "Director", the director of the department of labor and industrial relations;**

3 **(2) "Domestic violence", the same meaning as in section 455.010;**

4 **(3) "Employ", the act of employing or state of being employed, engaged, or hired**
5 **to perform work or services of any kind or character within the state of Missouri;**

6 **(4) "Employee", any person performing work or service of any kind or character**
7 **for hire within the state of Missouri;**

8 **(5) "Employer", the state or any agency of the state, political subdivision of the**
9 **state or any person that employs at least fifteen employees;**

10 **(6) "Employee benefit plan" or "plan", an employee welfare benefit plan or an**
11 **employee pension benefit plan or a plan which is both an employee welfare benefit plan**
12 **and an employee pension benefit plan;**

13 **(7) "Employment benefits", all benefits provided or made available to employees**
14 **by an employer, including group life insurance, health insurance, disability insurance, sick**
15 **leave, annual leave, educational benefits, pensions, and profit-sharing, regardless of**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended
to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

16 whether such benefits are provided by a practice or written policy of an employer or
17 through an "employee benefit plan";

18 (8) "Family or household member", for employees with a family or household
19 member who is a victim of domestic violence, means a spouse, parent, son, daughter, other
20 person related by blood or by present or prior marriage, other person who shares a
21 relationship through a son or daughter, and persons jointly residing in the same
22 household;

23 (9) "Parent", the biological parent of an employee or an individual who stood in
24 loco parentis to an employee when the employee was a son or daughter;

25 (10) "Person", an individual, partnership, association, corporation, business trust,
26 legal representative, or any organized group of persons;

27 (11) "Public agency", means the government of the state or political subdivision
28 thereof, any agency of the state, or of a political subdivision of the state, or any
29 governmental agency;

30 (12) "Public assistance", includes cash, food stamps, medical assistance, housing
31 assistance, and other benefits provided on the basis of income by a public agency or public
32 employer;

33 (13) "Qualified individual", in the case of:

34 (a) An applicant or employee of an employer, an individual who, but for being a
35 victim of domestic violence or with a family or household member who is a victim of
36 domestic violence, can perform the essential functions of the employment position that such
37 individual holds or desires; or

38 (b) An applicant for or recipient of public assistance from a public agency, an
39 individual who, but for being a victim of domestic violence or with a family or household
40 member who is a victim of domestic violence, can satisfy the essential requirements of the
41 program providing the public assistance that the individual receives or desires;

42 (14) "Reasonable accommodation", an adjustment to a job structure, workplace
43 facility, or work requirement, including a transfer, reassignment, modified schedule, leave,
44 a changed telephone number or seating assignment, installation of a lock, implementation
45 of a safety procedure, or assistance in documenting domestic violence that occurs at the
46 workplace or in work-related settings, in response to actual or threatened domestic
47 violence. Any exigent circumstances or danger facing the employee or his or her family or
48 household member shall be considered in determining whether the accommodation is
49 reasonable;

50 (15) "Reduced work schedule", a work schedule that reduces the usual number of
51 hours per workweek, or hours per workday, of an employee;

52 (16) "Son or daughter", a biological, adopted, or foster child, a stepchild, a legal
53 ward, or a child of a person standing in loco parentis, who is under eighteen years of age,
54 or is eighteen years of age or older and incapable of self-care because of a mental or
55 physical disability;

56 (17) "Undue hardship", significant difficulty or expense, when considered in light
57 of the following factors:

58 (a) The nature and cost of the reasonable accommodation;

59 (b) The overall financial resources of the facility involved in the provision of the
60 reasonable accommodation, the number of persons employed at such facility, the effect on
61 expenses and resources, or the impact otherwise of such accommodation on the operation
62 of the facility;

63 (c) The overall financial resources of the employer or public agency, the overall size
64 of the business of an employer or public agency with respect to the number of employees
65 of the employer or public agency, and the number, type, and location of the facilities of an
66 employer or public agency; and

67 (d) The type of operation of the employer or public agency, including the
68 composition, structure, and functions of the workforce of the employer or public agency,
69 the distance of the facility from the employer or public agency, and the administrative or
70 fiscal relationship of the facility to the employer or public agency;

71 (18) "Victim", an individual who has been subjected to domestic violence;

72 (19) "Victim services organization", means a nonprofit, nongovernmental
73 organization that provides assistance to victims of domestic violence or to advocates for
74 such victims, including a rape crisis center, an organization carrying out a domestic
75 violence program, an organization operating a shelter or providing counseling services, or
76 a legal services organization or other organization providing assistance through the legal
77 process;

78 (20) "Work", any job, task, labor, services, or any other activity for which
79 compensation is provided, expected, or due.

285.630. 1. An employee who is a victim of domestic violence or has a family or
2 household member who is a victim of domestic violence whose interests are not adverse to
3 the employee as it relates to the domestic violence may take unpaid leave from work to
4 address such violence by:

5 (1) Seeking medical attention for, or recovering from, physical or psychological
6 injuries caused by domestic violence to the employee or the employee's family or household
7 member;

8 **(2) Obtaining services from a victim services organization for the employee or the**
9 **employee's family or household member;**

10 **(3) Obtaining psychological or other counseling for the employee or the employee's**
11 **family or household member;**

12 **(4) Participating in safety planning, temporarily or permanently relocating, or**
13 **taking other actions to increase the safety of the employee or the employee's family or**
14 **household member from future domestic violence or ensure economic security; or**

15 **(5) Seeking legal assistance or remedies to ensure the health and safety of the**
16 **employee or the employee's family or household member, including preparing for or**
17 **participating in any civil or criminal legal proceeding related to or derived from domestic**
18 **violence.**

19 **2. Subject to subsection 5 of this section, an employee working for an employer that**
20 **employs at least fifty employees shall be entitled to a total of twelve workweeks of leave**
21 **under subsection 1 of this section during any twelve-month period. An employee working**
22 **for an employer that employs at least fifteen but not more than forty-nine employees shall**
23 **be entitled to a total of eight workweeks of leave under subsection 1 of this section during**
24 **any twelve-month period. The total number of workweeks to which an employee is entitled**
25 **shall not decrease during the relevant twelve-month period. Sections 285.625 to 285.670**
26 **shall not create a right for an employee to take unpaid leave that exceeds the amount of**
27 **unpaid leave time allowed under the federal Family and Medical Leave Act of 1993 (29**
28 **U.S.C. 2601 et seq.).**

29 **3. Leave described in subsection 2 of this section may be taken intermittently or on**
30 **a reduced work schedule.**

31 **4. The employee shall provide the employer with at least forty-eight hours' advance**
32 **notice of the employee's intention to take leave under subsection 1 of this section, unless**
33 **providing such notice is not practicable. When an unscheduled absence occurs, the**
34 **employer may not take any action against the employee if the employee, upon request of**
35 **the employer and within a reasonable period after the absence, provides certification under**
36 **subsection 5 of this section.**

37 **5. The employer may require the employee to provide certification to the employer**
38 **that the employee or the employee's family or household member is a victim of domestic**
39 **violence and that the leave is for one of the purposes enumerated in subsection 1 of this**
40 **section. The employee shall provide such certification to the employer within a reasonable**
41 **period after the employer requests certification.**

42 **6. An employee may satisfy the certification requirement of subsection 5 of this**
43 **section by providing to the employer, a sworn statement of the employee and the following:**

(1) Documentation from an employee, agent, or volunteer of a victim services organization, an attorney, a member of the clergy, or a medical or other professional from whom the employee or the employee's family or household member has sought assistance in addressing domestic violence and the effects of the violence;

(2) A police or court record; or

(3) Other corroborating evidence.

7. All information provided to the employer pursuant to subsection 6 of this section including a statement of the employee or any other documentation, record, or corroborating evidence, and the fact that the employee has requested or obtained leave pursuant to this section, shall be retained in the strictest confidence by the employer, except to the extent that disclosure is requested or consented to in writing by the employee or otherwise required by applicable federal or state law.

8. Any employee who takes leave under this section shall be entitled, on return from such leave, to be restored by the employer to the position of employment held by the employee when the leave commenced or an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment.

9. The taking of leave under this section shall not result in the loss of any employment benefit accrued prior to the date on which the leave commenced. Nothing in this section shall be construed to entitle any restored employee to the accrual of any seniority or employment benefits during any period of leave or any right, benefit, or position of employment other than any right, benefit, or position to which the employee would have been entitled had the employee not taken the leave. Nothing in this section shall be construed to prohibit an employer from requiring an employee on leave under this section to report periodically to the employer on the status and intention of the employee to return to work.

285.635. 1. During any period that an employee takes leave under section 285.630, the employer shall maintain coverage for the employee and any family or household member under any group health plan for the duration of such leave at the level and under the conditions coverage would have been provided if the employee had continued in employment continuously for the duration of such leave.

2. The employer may recover the premium that the employer paid for maintaining coverage for the employee and the employee's family or household member under such group health plan during any period of leave under this section if the employee fails to return from leave after the period of leave to which the employee is entitled has expired for a reason other than the continuation, recurrence, or onset of domestic violence that entitled

11 the employee to leave under section 285.630; or other circumstances beyond the control of
12 the employee.

13 3. An employer may require an employee who claims that the employee is unable
14 to return to work because of a reason described in subsection 2 of this section to provide,
15 within a reasonable period after making the claim, certification to the employer that the
16 employee is unable to return to work because of that reason by providing the employer
17 with:

18 (1) A sworn statement of the employee;

19 (2) Documentation from an employee, agent, or volunteer of a victim services
20 organization, an attorney, a member of the clergy, or a medical or other professional from
21 whom the employee has sought assistance in addressing domestic violence and the effects
22 of that violence;

23 (3) A police or court record; or

24 (4) Other corroborating evidence.

25 4. All information provided to the employer pursuant to subsection 3 of this section
26 including a statement of the employee or any other documentation, record, or
27 corroborating evidence, and the fact that the employee is not returning to work because
28 of a reason described in subsection 2 of this section shall be retained in the strictest
29 confidence by the employer, except to the extent that disclosure is requested or consented
30 to in writing by the employee; or otherwise required by applicable federal or state law.

285.640. 1. It shall be unlawful for any employer to interfere with, restrain, or deny
2 the exercise of or the attempt to exercise any right provided under sections 285.625 to
3 285.670.

4 2. It shall be unlawful for any employer to discharge or harass any individual, or
5 otherwise discriminate against any individual with respect to compensation, terms,
6 conditions, or privileges of employment of the individual, including retaliation in any form
7 or manner, because the individual exercised any right provided under sections 285.625 to
8 285.670 or opposed any practice made unlawful by sections 285.625 to 285.670.

9 3. It shall be unlawful for any public agency to deny, reduce, or terminate the
10 benefits of, otherwise sanction, or harass any individual, or otherwise discriminate against
11 any individual with respect to the amount, terms, or conditions of public assistance of the
12 individual, including retaliation in any form or manner, because the individual exercised
13 any right provided under sections 285.625 to 285.670 or opposed any practice made
14 unlawful by sections 285.625 to 285.670.

15 **4. It shall be unlawful for any employer to discharge or in any other manner**
16 **discriminate, as provided in subsections 2 or 3 of this section, against any individual**
17 **because such individual has:**

18 **(1) Filed any charge, or has instituted or caused to be instituted any proceeding**
19 **under or related to sections 285.625 to 285.670;**

20 **(2) Given, or is about to give, any information in connection with any inquiry or**
21 **proceeding relating to any right provided under sections 285.625 to 285.670; or**

22 **(3) Testified, or is about to testify, in any inquiry or proceeding relating to any right**
23 **provided under sections 285.625 to 285.670.**

285.645. An employer shall not fail to hire, refuse to hire, discharge, constructively
2 **discharge, or harass any individual, otherwise discriminate against any individual with**
3 **respect to the compensation, terms, conditions, or privileges of employment of the**
4 **individual, or retaliate against an individual in any form or manner, and a public agency**
5 **shall not deny, reduce, or terminate the benefits of, otherwise sanction, or harass any**
6 **individual, otherwise discriminate against any individual with respect to the amount,**
7 **terms, or conditions of public assistance of the individual, or retaliate against an individual**
8 **in any form or manner, because:**

9 **(1) The individual involved is or is perceived to be a victim of domestic violence;**

10 **(2) The individual involved attended, participated in, prepared for, or requested**
11 **leave to attend, participate in, or prepare for a criminal or civil court proceeding relating**
12 **to an incident of domestic violence of which the individual or a family or household**
13 **member of the individual was a victim, or requested or took leave for any other reason**
14 **provided under section 285.630; or**

15 **(3) The individual involved requested a reasonable accommodation in response to**
16 **actual or threatened domestic violence, regardless of whether the request was granted; or**

17 **(4) The workplace is disrupted or threatened by the action of a person whom the**
18 **individual states has committed or threatened to commit domestic violence against the**
19 **individual or the individual's family or household member.**

285.650. 1. Employers and public agencies shall make reasonable accommodation,
2 **in a timely manner, to the known limitations resulting from circumstances relating to being**
3 **a victim of domestic violence or a family or household member being a victim of domestic**
4 **violence of an otherwise qualified individual:**

5 **(1) Who is:**

6 **(a) An applicant or employee of the employer; or**

7 **(b) An applicant for or recipient of public assistance from a public agency; and**

8 **(2) Who is:**

9 (a) A victim of domestic violence; or

10 (b) With a family or household member who is a victim of domestic violence whose
11 interests are not adverse to the individual in this subdivision as it relates to the domestic
12 violence;

13 2. Subsection 1 of this section shall not apply if the employer or public agency can
14 demonstrate that the accommodation would impose an undue hardship on the operation
15 of the employer or public agency.

 285.655. The attorney general may investigate alleged or suspected violations of
2 sections 285.625 to 285.670 and shall have all powers provided by sections 407.040 to
3 407.090 in connection with any investigation of an alleged or suspected violation of sections
4 285.625 to 285.670 as if the unlawful acts enumerated in sections 285.625 to 285.670 are
5 unlawful acts proscribed by chapter 407. The attorney general may serve and enforce
6 subpoenas related to the enforcement of sections 285.625 to 285.670.

 285.660. Damages awarded due to violations of sections 285.625 to 285.670 shall
2 include:

3 (1) Damages equal to the amount of wages, salary, employment benefits, public
4 assistance, or other compensation denied or lost to such individual by reason of the
5 violation, and the interest on that amount calculated at the prevailing rate;

6 (2) Such equitable relief as may be appropriate, including but not limited to hiring,
7 reinstatement, promotion, and reasonable accommodations; and

8 (3) Reasonable attorney's fees, reasonable expert witness fees, and other costs of
9 the action to be paid by the respondent to a prevailing employee.

 285.665. Every employer covered by sections 285.625 to 285.670 shall post and keep
2 posted, in conspicuous places on the premises of the employer where notices to employees
3 are customarily posted, a notice, to be prepared or approved by the director, summarizing
4 the requirements of sections 285.625 to 285.670 and information pertaining to the filing of
5 a charge. The director shall furnish copies of summaries and rules to employers upon
6 request without charge.

 285.670. 1. Nothing in sections 285.625 to 285.670 shall be construed to supersede
2 any provision of any federal, state, or local law, collective bargaining agreement, or
3 employment benefits program or plan that provides:

4 (1) Greater leave benefits for victims of domestic violence than the rights
5 established under sections 285.625 to 285.670; or

6 (2) Leave benefits for a larger population of victims of domestic violence, as defined
7 in such law, agreement, program, or plan, than the victims of domestic violence covered
8 under sections 285.625 to 285.670.

9 **2. The rights and remedies established for applicants and employees who are**
10 **victims of domestic violence and applicants and employees with a family or household**
11 **member who is a victim of domestic violence under sections 285.625 to 285.670 shall not**
12 **be diminished by any federal, state or local law, collective bargaining agreement, or**
13 **employment benefits program or plan.**

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